

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 146540

61

ORIGIN TRSE-00

INFO OCT-01 EUR-25 IO-13 ADP-00 EB-11 STR-08 L-03 AF-10

ARA-16 EA-11 NEA-10 RSC-01 AGR-20 CEA-02 CIAE-00

COME-00 DODE-00 FRB-02 H-03 INR-10 INT-08 LAB-06

NSAE-00 NSC-10 PA-03 AID-20 CIEP-02 SS-15 TAR-02

USIA-15 PRS-01 OMB-01 OIC-04 /233 R

TX-387

DRAFTED BY TREAS/MRSANDSTROM

7/25/73 X21114

APPROVED BY EB/IFD/OMA:JKRIZAY

TREAS. - MR. SCHMULTS

TREAS. - MR. PATRICK

TREAS. - MR. MCFADDEN

EUR/RPE - MR. MEIMA

STR - MR. WOLFF

L/E - MR. BURNS (INFO)

EB/IFD/OMA - MR. MILAM

EB/ITP/TA - MR. LAVOREL

----- 055450

P R 252306Z JUL 73

FM SECSTATE WASHDC

TO USMISSION GENEVA PRIORITY

INFO AMEMBASSY BRUSSELS

AMEMBASSY BONN

AMEMBASSY COPENHAGEN

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 146540

AMEMBASSY PARIS

AMEMBASSY ROME

USMISSION EC BRUSSELS

USMISSION OECD PARIS

LIMITED OFFICIAL USE STATE 146540

E.O. 11652:N/A

TAGS: ETRD, US, GATT, EEC

SUBJECT: SUGGESTED STATEMENT ON DISC FOR JULY 30 GATT
COUNCIL

1. AT THE LAST MEETING OF THE GATT COUNCIL, THE REPRESENTATIVE OF THE EUROPEAN COMMUNITIES PROPOSED THE ESTABLISHMENT OF A PANEL TO DEAL WITH ITS COMPLAINT AGAINST THE DOMESTIC INTERNATIONAL SALE S CORPORATION (DISC) PROVISIONS OF OUR INTERNAL REVENUE CODE OF 1954, AS AMENDED. AT THE SAME MEETING THE UNITED STATES SUGGESTED THAT THE EC COMPLAINT, AS WELL AS THE U.S. COMPLAINTS AGAINST THE TAX PRACTICES OF BELGIUM, FRANCE, AND THE NETHERLANDS, SHOULD BE CONSIDERED IN THE CONTEXT OF A GENERAL WORKING PARTY ON THE SUBJECT OF THE IMPACT OF DIRECT TAX PRACTICES ON EXPORTS. DURING THE LAST MEETING WE EXPRESSED AT SOME LENGTH OUR VIEWS ON THE IMPLICATIONS OF THESE SUGGESTED PROCEEDINGS AND ON THE SUBSTANTIVE ISSUES INVOLVED, WITH RESPECT TO THE ITEMS WHICH ARE TODAY BEFORE THE COUNCIL FOR ITS CONSIDERATION.

2. IN BRIEF, WE STRESSED THAT THE COUNCIL'S ACTION IN THIS AREA WOULD NOT BE MERELY A SIMPLE PROCEDURAL STEP. TAX PRACTICES OTHER THAN THE DISC ARE CLEARLY RELEVANT, UNDER WELL-RECOGNIZED PRINCIPLES OF INTERNATIONAL LAW, TO THE INTERPRETATION OF TREATY OBLIGATIONS; AND THE EFFECTS OF TAX SYSTEMS OR MANY OTHER NATIONS CLOSELY PARALLEL THE EFFECTS OF THE U.S. SYSTEM WITH THE DISC. ALL OF THESE PRACTICES WILL THEREFORE BE RELEVANT TO THE CONSIDERATION OF THE FOUR COMPLAINTS WHICH WERE TABLED, AND WHICH HAVE BEEN REFERRED TO THIS MEETING OF THE COUNCIL.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 146540

3. AT THIS TIME I WOULD LIKE TO ASK THE DISTINGUISHED REPRESENTATIVE OF THE EUROPEAN COMMUNITIES WHETHER THE EC ACCEPTS THE SUGGESTION THAT THESE COMPLAINTS BE CONSIDERED IN THE CONTEXT OF A GENERAL WORKING PARTY, AS OPPOSED TO PANEL INVESTIGATIONS. (IF THE EC SPEAKS INITIALLY AND INDICATES PRIOR TO THE U.S. STATEMENT THAT IT REJECTS THE WORKING PARTY PROPOSAL, THE LAST SENTENCE CAN BE REPHRASED SO AS TO ASK FOR CONFIRMATION OF THE EC'S POSITION ON THE U.S. PROPOSAL.)

4. (THE EC'S RESPONSE WILL ALSO CERTAINLY BE IN THE NEGATIVE. IF SO, THE U.S. REPRESENTATIVE SHOULD EXPRESS REGRET AT THE FAILURE TO REACH AGREEMENT ON A FORUM WITH BROADER SCOPE AND CONTINUE WITH THE FOLLOWING SUGGESTED STATEMENT. THE PURPOSE OF THE QUESTION, IS TO PUT THE EC'S REFUSAL OF THE U.S. PROPOSAL ON THE RECORD. IF THE EC ANSWERS IN THE AFFIRMATIVE, THE U.S. REPRESENTATIVE CAN SUGGEST THAT THE STRUCTURE AND TERMS OF REFERENCE OF THE WORKING PARTY BE WORKED OUT BY INTERESTED PARTIES DURING THE PERIOD PRECEDING THE NEXT COUNCIL MEETING.)

5. IN LIGHT OF THE EC'S REQUEST THAT ITS COMPLAINT BE CONSIDERED BY A PANEL, THE UNITED STATES WISHES TO EXPRESS ITS VIEWS ON THE PROPOSALS NOW BEFORE THE COUNCIL. WE WOULD SUPPORT THE ESTABLISHMENT OF AN IMPARTIAL AND EXPERT PANEL TO REVIEW THE EC'S COMPLAINT ON THE DISC AND THE U.S. COMPLAINTS AGAINST FRANCE, BELGIUM AND THE NETHERLANDS, ALL UNDER ARTICLE XXIII:2. THIS COULD BE DONE BY A SINGLE OR BY SEPARATE PANELS. HOWEVER, IN THE LATTER CASE WE WOULD REGARD IT AS ESSENTIAL THAT THE SEPARATE PANELS BE COMPOSED OF IDENTICAL MEMBERS. IN ADDITION THE PANEL OR PANELS SHOULD MEET THE FOLLOWING CRITERIA:

--- THE SPECIFIC RECOMMENDATIONS WHICH SUCH A PANEL MIGHT MAKE WITH RESPECT TO THE DISC SHOULD ANNUNCIATE PRINCIPLES APPLICABLE TO THE TAX SYSTEMS OF ALL NATIONS OBLIGATED UNDER ARTICLE XV:4.

-

--- PANEL MEMBERS WOULD INCLUDE AS FULL MEMBERS ONE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 146540

OR MORE PERSONS HAVING EXPERTISE IN TAX MATTERS RELATING TO THE COMPLAINT. IT IS CLEAR THAT THE ISSUES WHICH ARE TO BE CONSIDERED INVOLVE COMPLEX TAX MATTERS AND THAT

PARTICULAR EXPERTISE IN TAX MATTERS IS THEREFORE ESSENTIAL TO AN EQUITABLE REVIEW OF THE FOUR COMPLAINTS.

--- THE PANEL SHALL PERMIT THE INTRODUCTION OF INFORMATION CONCERNING THE TAX PRACTICES OF THE OTHER COUNTRIES WHICH HAVE ADHERED TO THE 1960 DECLARATION GIVING EFFECT TO THE PROVISIONS OF ARTICLE XV:4 AS AN AID TO THE INTERPRETATION OF THE OBLIGATIONS OF PARTIES UNDER THAT GATT PROVISION DURING ITS INVESTIGATION OF THE DISC.

6. IF THIS TYPE OF PANEL PROCEDURE IS ADOPTED, WE WOULD NOT FEEL COMPELLED TO ASK FOR SIMULTANEOUS CONSIDERATION

OF OUR COMPLAINTS AGAINST THE TAX PRACTICES OF FRANCE,
BELGIUM, AND THE NETHERLANDS WHILE THE DISC IS BEING
EXAMINED. HOWEVER, IT SHOULD BE UNDERSTOOD THAT THE U.S.
WILL HAVE THE RIGHT TO EXPEDITIOUS PANEL CONSIDERATION
OF ITS COMPLAINTS ON THE TAX PRACTICES OF BELGIUM, FRANCE
AND THE NETHERLANDS FOLLOWING THE EXAMINATION OF THE
DISC, AND THAT NO REPORT WILL BE MADE BY THE PANEL TO
THE COUNCIL ON THE RESULTS OF ANY ONE INVESTIGATION,
UNTIL REPORTS ARE MADE SIMULTANEOUSLY WITH RESPECT TO
ALL FOUR COMPLAINTS FOLLOWING THE CONCLUSION OF ALL
FOUR OF THE CORRESPONDING INVESTIGATIONS. ROGERS

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 25 JUL 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE146540
Document Source: CORE
Document Unique ID: 00
Drafter: MRSANDSTROM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730711/aaaaahou.tel
Line Count: 180
Locator: TEXT ON-LINE
Office: ORIGIN TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 19 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19-Sep-2001 by freemaal>; APPROVED <30-Oct-2001 by morefirh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SUGGESTED STATEMENT ON DISC FOR JULY 30 GATT COUNCIL
TAGS: ETRD, US, GATT, EEC
To: GENEVA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005